

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

ETHICON ENDO-SURGERY, INC.,

Plaintiff,

v.

HOLOGIC, INC. and SUROS SURGICAL
SYSTEMS, INC.,

Defendants.

Civil Action No. 07-cv-00834
Judge: Michael R. Barrett

DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

Pursuant to Fed. R. Civ. P. 56(b), Defendants' Hologic, Inc. and Suros Surgical Systems, Inc. (collectively "Hologic"), respectfully move for:

1. summary judgment of non-infringement of U.S. Patent No. 6,273,862
2. summary judgment of non-infringement of U.S. Patent No. 7,226,424
3. summary judgment of invalidity of U.S. Patent Nos. 6,428,487 and 6,752,768;
4. summary judgment on Plaintiff's Lanham Act Claim;
5. summary judgment on Plaintiff's Claim of Willful Infringement; and
6. summary judgment that Plaintiff is not entitled to pre-suit damages for alleged infringement of U.S. Patent Nos. 6,273,862; 7,226, 424; 6,428,487 and 6,752,768 for failure to comply with the requirements of 35 U.S.C. § 287.

For the reasons set forth in its accompanying Memorandum, Hologic requests that the Court grant its Motion for Summary Judgment.

Respectfully submitted,

HOLOGIC, INC. and SUROS SURGICAL
SYSTEMS, INC.

By their attorneys,

By their attorneys,

/s/ James E. Burke

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Dated: September 18, 2009

CERTIFICATE OF SERVICE

I certify that on September 18, 2009, a copies of the Defendants' Motion for Summary Judgment will be sent to counsel of record by operation of the Court's electronic filing system, and copies were served on counsel of record by email and first class mail.

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/s/ Jonathan Woodard
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Dated: September 18, 2009